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Note by the President of the Security Council

I have the honour to transmit herewith a letter dated 18 December 2006 from the Chairman of the Informal Working Group of the Security Council on General Issues of Sanctions addressed to the President of the Security Council, enclosing the report of the Informal Working Group (see annex).

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Annex

Letter dated 18 December 2006 from the Chairman of the Informal Working Group of the Security Council on General Issues of Sanctions addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Informal Working Group on General Issues of Sanctions, which represents a year-long effort of the members, pursuant to their mandate "to develop general recommendations on how to improve the effectiveness of United Nations sanctions" (see S/2005/841 of 29 December 2005).

I would appreciate it if the present letter and its annex were brought to the attention of the members of the Security Council and issued as a document of the Security Council.

(*Signed*) Adamantios Th. **Vassilakis**
Chairman
Informal Working Group on General Issues of Sanctions

Report of the Informal Working Group of the Security Council on General Issues of Sanctions

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I. Introduction

1. The members of the Informal Working Group on General Issues of Sanctions held seven informal consultations pertaining to its mandate to "develop general recommendations on how to improve the effectiveness of United Nations sanctions" (S/2005/841), and approved the following best practices with respect to sanctions design, implementation, evaluation and follow-up, committee working methods, monitoring and enforcement, and methodological standards and reporting format for expert groups.

II. Sanctions design, implementation, evaluation and follow-up

2. For targeted sanctions to be effective, appropriate action must be taken at all decision-making levels: the Security Council, the sanctions committee, Member States and their administrative agencies. Proper design, implementation, ongoing evaluation and follow-up of sanctions regimes are key elements that contribute to the effectiveness of sanctions.

A. Design

3. Pre-assessment or early assessment and standard language and terminology are essential ingredients for effective sanctions design, including accurate targeting. The Security Council should:

(a) In drafting resolutions, give due consideration to the feasibility of targeted sanctions and their implications, as well as the most appropriate mix of targeted measures. If it is feasible and appropriate to prepare pre-assessment or early assessment reports, they should be clear regarding the behaviour the Security Council is seeking to change; the identity of the responsible actors/entities; the means available to the target to take evasive action; and the possible humanitarian, political, and economic impacts;

(b) Utilize standard language and terminology and consider the following elements in its sanctions resolutions:

(i) To the extent possible, and as deemed feasible and appropriate, define in general language dual-use items that are intended by the Council to be included under the arms embargo;

(ii) Clearly define the scope of the sanctions, as well as the conditions and criteria for their easing or lifting;

(iii) Standardize humanitarian and other exemptions to all targeted measures, including arms embargoes, travel restrictions, aviation bans and financial sanctions;

(iv) Provide for a credible mechanism to monitor the sanctions regime, and ensure that full account is taken of logistical and budgetary support needed by expert groups to fulfil their mandates, including the provision of an adequate time period for inquiry and reporting. Failure to anticipate, budget and supply adequate support, financial and otherwise, to expert groups can result in costly

delays in their field inquiries, in incomplete inquiries, and in unduly long gaps between mandates;

(v) Encourage committees to draw up guidelines to ensure that the selection of individuals and entities for listing is based on fair and clear procedures;

(vi) Encourage committees to conduct regular reviews of names on the list; to ensure, to the degree possible, maximum specificity in identifying individuals and entities to be targeted; and to adopt guidelines based on fair and clear procedures for delisting early in a sanctions regime;

(vii) Urge donors, including States and international and regional organizations with the capacity to do so, to offer appropriate technical and financial assistance to States that need such assistance.

B. Implementation

4. Throughout a sanctions regime, the relevant committee should encourage Member States to identify/establish national coordination mechanisms to improve implementation of the sanctions regime by:

(a) Maintaining commitment and ensuring national coordination:

(i) Inform and periodically remind Member States of the purpose of the sanctions and of their duties under the relevant resolution;

(ii) Extend public recognition to Member States that complete their reporting and implementation measures fully and in due time;

(iii) Encourage Member States to establish effective interdepartmental coordination between relevant agencies and to identify central contact points for the transmission of information about the implementation of targeted sanctions;

(iv) Encourage Member States to cooperate through regional organizations to identify best practices, cooperate with expert panels and sanctions committees and report violations;

(b) Assisting in building national capacity:

(i) Ensure that a lack of capacity to implement sanctions effectively is specifically addressed by States lacking such capacity in their reports to committees;

(ii) Invite States to seek technical assistance if they lack the capacity to implement sanctions effectively;

(iii) Determine best practices for capacity-building and disseminate them to Member States;

(iv) Seek resources for the Secretariat to establish a database of available technical assistance for capacity-building;

(v) Encourage donors to bear in mind that any downward adjustment in the level of aid and assistance to populations in targeted States, particularly in cases where certain economic sectors (such as timber or diamonds) are

targeted, could affect how the population in the targeted State perceives the aim of sanctions.

Strengthening Secretariat capacity

5. It is recommended that the Security Council take note of the informal background non-paper prepared by the Security Council Subsidiary Organs Branch, stating that the proliferation of expert groups has strained its ability to provide needed substantive, administrative, logistical and analytical support. The Security Council should request the Secretary-General to explore ways to ensure that the Secretariat is adequately staffed to fulfil effectively its mandated tasks. This could be accomplished by retaining the current structure of ad hoc expert groups and reallocating Secretariat resources to the Subsidiary Organs Branch so that it can adequately provide support to expert groups.

6. The Security Council should request the Secretary-General to explore ways to provide the Secretariat with the necessary resources for maintaining an information management system for the storage, retrieval and sharing of information among expert groups. Such an information management system should use and integrate to the fullest extent possible design elements that are already in use in the database of the Al-Qaida and Taliban Sanctions Committee.

C. Evaluation and follow-up

7. It is recommended that the Security Council:

(a) Conduct periodic review and evaluation of sanctions regimes, their political impact and their unintended effects on civilian populations, bearing in mind State obligations according to international law, and make adjustments, as appropriate;

(b) Devise a communications strategy (targeted sanctions must be clearly described and understood as measures to maintain international peace and security, not as a punitive measure) and maintain continuous public information efforts oriented towards civilian populations in the target State and in neighbouring States on the rationale of sanctions in order to encourage compliance.

III. Monitoring and enforcement

8. One of the significant innovations in the work of the Security Council in recent years is the creation of independent expert groups to monitor the implementation of sanctions. Monitoring arrangements are in place for most of the active sanctions regimes, including Al-Qaida/Taliban, Côte d'Ivoire, the Democratic Republic of the Congo, Liberia, Somalia and the Sudan. These groups have made a valuable contribution to the effort to detect and correct violations and to the overall goal of enhancing compliance.

A. Working methods of expert groups

9. The working methods of expert groups have developed through a system of trial and error. Any perception of less than rigorous standards in the conduct of any aspect of their work can call into question the integrity of their entire reports. Some recommended actions are:

(a) To establish clear guidelines for expert groups to consult in order to ensure that, while these groups maintain their independence, their inquiries and findings meet appropriately high standards (including reliability of sources; validity of information; identifying names; and right of reply to individuals, entities and States). The guidelines would be based on best practices, drafted in consultation with monitoring experts and possibly other relevant parties, including Member States, and take into consideration the distinct nature of Security Council sanctions regimes and mandates;

(b) To establish, in consultation with monitoring experts, minimum standard criteria for the format of expert group reports, taking into consideration the distinct nature of Security Council sanctions regimes and mandates, and encourage a practical and action-oriented approach;

(c) To encourage expert groups to clarify the terms of reference for their work with the Committee at the outset, or at any time during their mandate;

(d) To promote increased cooperation and interaction among the various expert groups to increase efficiency and decrease duplication of effort;

(e) To address the problem concerning the time required for the Secretariat to appoint monitoring mechanisms and process their reports;

(f) To address the problem concerning the limited time available to the monitoring experts to conduct their work (and how this affects the quality of their work on the ground and report drafting).

B. Implementation of the recommendations of expert group reports

10. A number of steps should be taken to improve the implementation of expert group recommendations that are approved by the Security Council:

(a) Committees agree on a standardized format for the presentation of experts' recommendations for consideration, and prioritize recommendations according to criteria such as urgency and ease of implementation;

(b) Identify the appropriate actor for each recommendation and initiate action and follow-up;

(c) Write to States where an individual or State authority is alleged to have violated sanctions, requesting a prompt response and corrective action and follow-up as the Committee deems necessary;

(d) Continue, on a case-by-case basis, to invite relevant parties, including neighbouring States, to come to the Committee to exchange information on sanctions implementation; seek further information from States alleged to have violated sanctions; and make the outcome of the discussion public, perhaps in the committee's annual report;

(e) Incorporate guidance on committee follow-up action in the guidelines for the conduct of work;

(f) The Security Council should seek to provide, in the event it chooses to refrain from implementing a recommendation proposed by an expert group, an explanation for its reasons, if and when it deems it appropriate.

C. Roster of experts

11. In order to establish a standardized and transparent system for identifying candidates for expert groups, the Secretariat set up some years ago an expert roster of candidates drawn from a variety of sources, including Member State submissions, academia and non-governmental organizations. Selection is based on the criteria of specialized expertise in the area of competence and academic qualifications, with due regard to equitable geographic distribution, gender balance and references. This system could be improved by:

(a) Continuing periodic review of the interest and availability of candidates and revising the roster accordingly;

(b) Instituting a transparent system of performance evaluation for members of expert groups;

(c) Considering the possibility of engaging monitoring experts for longer periods of time while avoiding the risk of compromising their independence;

(d) Increasing efforts to seek candidates with cultural and country-related knowledge relevant to the mandates of monitoring mechanisms.

D. Information management

12. The project to design a centralized, retrievable database for the documents and information accumulated by expert groups and monitoring mechanisms should use and integrate to the fullest extent possible design elements that are already in use in the Al-Qaida and Taliban Sanctions Committee-related database. Steps should also be taken to:

(a) Identify additional ways to enhance the institutional memory of the Secretariat with regard to the practice and precedent of sanctions administration;

(b) Establish a system for making such material available to expert groups at the outset of their mandate.

E. Visits to the region by chairpersons

13. Committee chairpersons should continue the practice of visits to the region of targeted countries to monitor sanctions implementation, in accordance with the note by the President of the Security Council dated 29 January 1999 (S/1999/92), and report to the Council in instances of significant or serious non-compliance.

IV. Committee working methods

14. Increased information sharing in the sanctions process would enhance transparency and contribute to better implementation of the sanctions measures. In addition, providing populations in target States with more information about the scope and purpose of sanctions would reduce their vulnerability to anti-sanctions propaganda.

15. Increased transparency in the work of sanctions committees as well as outreach to international media are some ways to address these issues. More use could be made of advanced communication technology to increase the interaction of various actors with the committees, while minimizing costs.

16. The following are suggested ways to improve committee working methods:

Procedures

(a) Committees to harmonize guidelines, as they deem appropriate, including procedures for listing and delisting, and publicize guidelines by note verbale to all Member States, as well as by posting on committee websites;

(b) Make States' reports publicly available on committee websites unless a State specifically requests that its report be kept confidential;

(c) Provide a standard template to assist States in meeting reporting requirements;

(d) Chairpersons to issue press releases and use other means to publicize which States have submitted reports on implementation and encourage States, which have not submitted reports, to do so, subject to the approval of the concerned committee (currently, annual reports list only those States that have reported);

(e) Chairpersons to meet frequently to discuss common concerns, best practices and ways to improve mutual cooperation;

(f) Committees, if they deem it appropriate, to include in their guidelines a provision for regular reviews of "holds" placed by members;

Outreach

(g) Chairpersons to regularly brief (singly or jointly) non-members on the status of the monitoring and implementation of sanctions. Open meetings of the Security Council could also be convened for this purpose;

(h) Committees, as they deem feasible and appropriate, to announce all meetings to the public (in the *Journal of the United Nations* and/or on their websites) and seek to provide a provisional agenda and brief summary of decisions;

(i) Chairpersons to engage with the international media (including United Nations Radio and Television in the field) to provide information on (i) the rationale behind sanctions; (ii) the criteria for their lifting; (iii) problems involved with monitoring and implementation; and (iv) sanctions violations and non-compliance by States;

(j) Committees to improve public dissemination of the published reports of the expert groups, while preserving the confidentiality of classified documents;

Interaction

(k) Committees to encourage regular inputs from target and neighbouring States as to challenges they face in sanctions monitoring and implementation;

(l) Improve methods for routine engagement of regional and subregional organizations in support of sanctions implementation by establishing channels for exchanging information with such organizations (e.g. Economic Community of West African States, African Union), including providing assistance to and receiving assistance from such regional organizations;

(m) Improve communication links between the United Nations and specialized international organizations, drawing their attention to actions in their area of competence mentioned in Security Council resolutions, and to matters within their competence identified in expert group reports (e.g. International Civil Aviation Organization, World Customs Organization, Interpol, Kimberley Process);

(n) Strengthen interaction with non-governmental organizations, when deemed necessary, on issues where they maintain a regional presence and explore options to increase the opportunities for consultation with key private-sector actors on sanctions-related issues.

V. Methodological standards for reports of sanctions monitoring mechanisms (criteria and best practices)

17. The establishment of sanctions monitoring mechanisms is an important innovation in the structure of Security Council sanctions regimes, which has contributed to more effective sanctions implementation. Through their inquiries in States affected by sanctions, these mechanisms have shed significant light on how targeted sanctions, including arms embargoes, are implemented, as well as on various possible ways that sanctions are violated. These mechanisms have contributed to an understanding of both the nature and scope of obstacles to more systematic compliance, thereby enhancing the overall capacity of the United Nations to refine and tighten targeted sanctions measures.

18. The methodological standards used by monitoring mechanisms have evolved with experience gained through their fact-finding work. Insufficiently supported allegations of non-compliance and sanctions violations publicized in a United Nations report could call into question the integrity of the entire report. For this reason, there is room for further improvement of, as well as agreement on, methodological standards for sanctions monitoring mechanisms.

A. Common methodological standards

19. Sanctions monitoring mechanisms are established by the Security Council in support of subsidiary organs. As such, they are organs with different and distinct mandates, of independent, expert and non-judiciary character, with no subpoena powers, whose primary role is to provide sanctions-related information to the relevant committees. However, given that the findings of the monitoring mechanisms (either their reports or documents or testimonies of their individual

members), may be used by judicial authorities, their methodological standards may affect the credibility of the Organization.

20. Common methodological standards, allowing for differing mandates and drawing on the best practices and lessons learned from the accumulated experience of past and present sanctions monitoring mechanisms, could provide a useful reference point for such mechanisms for identifying and verifying sanctions violations and for evaluating the reliability of sources.

B. Possible steps for clarifying methodological standards

Transparency and sources

21. Whenever possible, monitoring mechanisms should identify the sources of information contained in their reports, ensure that such information is as transparent and verifiable as possible to protect the credibility of findings and the integrity of the process, and check and corroborate all citations and facts.

Documentary evidence

22. Monitoring mechanisms should rely on verified documents and, wherever possible, on first-hand, on-site observations by the experts themselves, including photographs.

Assertions corroborated by independent verifiable sources

23. Monitoring mechanisms should endeavour to ensure that their assertions are corroborated by solid information and that their findings are substantiated by credible sources.

Confidential sources

24. Monitoring mechanisms should take particular care when analysing the reliability of confidential information, keeping in mind the identity and role of the source of such information. Upholding the confidentiality of sources of information regarding sanctions-busting or non-compliance may be necessary to ensure the personal safety of individual sources. In all cases, efforts should be made to ensure the veracity of information gained in confidence against independent and verifiable sources.

25. While maintaining the confidentiality of certain sources, experts could provide more clarification on such sources by attributing such information received from States to an "official but confidential" source. Similarly, confidential information obtained from an individual could be identified by referring to the office or professional position of the individual.

Stating methodological standards

26. Monitoring mechanisms should, where appropriate, state their methodological standards at the outset of each report and adhere to those standards.

Briefing on available sources

27. Monitoring mechanisms are assisted in their work by being informed of, or receiving copies of guidelines and material from, previous monitoring mechanisms and by being made aware of relevant resources available to them through the United Nations system.

Opportunity to review, comment and respond

28. Monitoring mechanisms should emphasize impartiality and fairness during the report drafting process, and make available to relevant parties (State authorities, entities or individuals), if appropriate, any evidence of wrongdoing for their review, comment and response, within a specified deadline. Rebuttals, with an assessment of their credibility, and corrections regarding already published allegations, should be included in subsequent reports.

Secretariat briefings

29. The Secretariat briefs newly established monitoring mechanisms at the outset of their work, including on the legal status of individual experts and bodies, coordination with other United Nations bodies on the ground, relationship with the Security Council and the Secretary-General, administrative and personnel issues and methodological standards.

30. Such briefings should be available when a monitoring mechanism is established and each time it is re-established, in particular to ensure that all newly appointed experts are briefed. In addition, these briefings could usefully be expanded with respect to best practices and monitoring mechanisms could benefit from access to legal advice from the Secretariat during the entire period of their missions.

C. Other factors that affect methodological standards

31. Ensuring the quality and reliability of monitoring mechanism reports can be facilitated by the appointment of the best qualified experts.

32. The Security Council and its committees should be as precise and unambiguous as possible concerning the measures imposed by resolutions and the tasks mandated to monitoring mechanisms and should provide all guidance requested by the mechanisms in a timely manner.

VI. Criteria and best practices for a standard format for reports of sanctions monitoring mechanisms

33. In order to improve the format of the reports of sanctions monitoring mechanisms and to make use of the best practices which these mechanisms have developed over time through their experience with report writing, common guidelines should be provided as a reference point for such mechanisms. The common guidelines should take into account that monitoring mechanisms have distinct mandates and work under different conditions. As such, these guidelines should be non-binding.

A. Technical format of the reports of monitoring mechanisms

34. The language of the reports of the monitoring mechanisms should be clear, focused and concise.

35. The software used for the reports as well as the applied font, font size, spacing, page numbering, etc. should adhere to a common standard set by the Secretariat and provided to each monitoring mechanism in template form.

36. Illustrative material (including graphs, charts, maps and photographs) to be included in the reports should be submitted digitally in a format which can be imported by the standard software used for the reports.

37. Names of individuals, entities and places need to be spelled out consistently throughout the document, and abbreviations should be avoided as much as possible. When used for the first time, abbreviations should be spelled out and clearly identified in the "abbreviations" section preceding the introductory section of the report.

38. Reports should to be submitted to the Secretariat in an electronic format as well as in a hard copy at least four weeks before the expected date of issuance stated in the text of the resolution in order to allow sufficient time for editing and translation. Monitoring mechanisms should nominate a single member to liaise with the Secretariat on editing and translation matters.

39. The recommended 35-page limit for all United Nations reports should also apply, to the greatest extent possible, to the reports of the monitoring mechanisms. This limit should not include annexes, footnotes, photos, graphics or any other additions to the main body of the report.

40. Monitoring mechanisms may wish to consider that experience has shown that assigning one member of the monitoring mechanism to draft the report facilitates its coherence, focus and consistency in drafting style.

B. Standard contents of the reports of monitoring mechanisms

41. The following elements should be standard in any monitoring mechanism report.

Abbreviations and glossary

42. Abbreviations should be used sparingly and be listed, together with a glossary of terms used, for quick reference.

Summary

43. An executive summary not exceeding two pages is useful for identifying the main findings and recommendations of a report.

Introduction

44. The introduction should state the monitoring mechanism's mandate or refer to relevant Security Council resolutions.

Composition of the monitoring mechanism

45. Reports may identify the members of the monitoring mechanism and their areas of expertise, and name consultants that have assisted the monitoring mechanism in its work.

Methodology

46. A section on methodology is vital as it allows the reader to become familiar with the methodology through which the monitoring mechanisms arrived at their conclusions. In this section, the monitoring mechanisms could also elaborate on the challenges encountered in carrying out their work.

Political context

47. Most monitoring mechanism reports make reference to the relevant political situation. This section should be brief and concise and confine itself as much as possible to issues that bear directly on the mechanism's mandate.

Analysis of the implementation of sanctions

48. The basis on which the analysis of the implementation of sanctions is made and the arguments leading to its conclusions should be clearly spelled out. Case studies should be applied and backed up with primary documents to allow for greater depth and emphasis regarding the analysis.

Recommendations

49. Whether placed at the end of each section of the report, or grouped at the end of the report, recommendations should prescribe specific and practical steps to be taken based on critical findings or observations. Whereas grouping recommendations at the end of a report may facilitate easy access, they may be placed within a text as well when they flow from a particular argument.

Accuracy in reporting

50. When drafting reports, monitoring mechanisms should provide concrete information concerning allegations of non-compliance or sanctions violations and pay due attention to accurate wording in describing such allegations and in identifying names, whether of States, individuals or entities.

Annexes

51. Annexes should be used to provide as much "hard" evidence (images, copies of documents and tables containing detailed technical information) as possible to substantiate the findings contained in the report. Annexes need to be legible and illustrative and should be retyped when appropriate.

52. Annexes that reproduce documentation, such as false end-user certificates, are particularly effective. If figures are provided, a footnote indicating the source should be included, for example, for figures of the value or volume of shipments in sanctioned commodities.

Activities and meetings

53. Reports should include an annex summarizing the activities of the monitoring mechanisms and listing relevant meetings.

Index

54. The inclusion of an index could be useful for a selective reading of the report.